

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARYMD Docket No. 94-19

In the Matter of )  
 )  
Implementation of Section 9 )  
of the Communications Act )  
 )  
Assessment and Collection of )  
Regulatory Fees for the 1994 )  
Fiscal Year )

To: The Commission

**COMMENTS OF ASSOCIATION OF AMERICAN RAILROADS**

The Association of American Railroads ("AAR"), by its undersigned counsel, hereby submits these comments in response to the Notice of Proposed Rule Making in the above-captioned proceeding, released March 11, 1994 (hereinafter "Notice").

**I. Background and Statement of Interest**

The Commission is required by the Omnibus Budget Reconciliation Act of 1993<sup>1/</sup> (the "Budget Act") to assess and collect annual regulatory fees to recover costs incurred in carrying out its enforcement activities, policy and rulemaking activities, user information services and international activities.

The railroad industry is an extensive user of the radio frequency spectrum. Railroads hold licenses in the Private Land Mobile Radio Service (PLMRS) regulated under Part 90 of the

<sup>1/</sup> Pub. L. No. 103-66, Title VI, § 6002(a), 107 Stat. 397 (enacted August 10, 1993).

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Commission's rules, and in the Private Operational Fixed Service (POFS) regulated under Part 94 of the rules.

Mobile radio plays an essential role in railroad operations. The railroads' PLMRS facilities operate primarily on 91 channels in the 160 MHz range and on 10 channels in the 450-470 MHz range. Aboard locomotives and rail equipment, along railroad tracks and in stations, terminals and train yards across the nation, railroads utilize about 16,400 base stations, 45,000 mobile radios, 125,000 portable radios, 5,500 "talking" defect detectors, and 56,000 end-of-train, head-of-train devices and locomotive mobiles, to direct and coordinate the movement of equipment and people throughout the nation's rail system.

The railroads' POFS fixed point-to-point microwave facilities are equally essential. They are used to monitor and control more than 1.2 million freight cars on more than 215,000 miles of track, automatically relaying signal information and remotely controlling the switching of tracks. These POFS systems also relay critical telemetry data from trackside defect detectors located throughout the rail network, and are vital to coordination of operations among different railroads.

The AAR supports the Commission's goals in this proceeding of ensuring that regulatory fees impose little or no additional paperwork burden on the users of the radio frequency spectrum. The AAR urges the Commission to coordinate, to the extent possible, its procedures used in assessing and collecting fees for applications and other filings pursuant to authority under

section 8 of the Communications Act<sup>2/</sup> with those proposed for collecting and assessing regulatory fees as discussed in the Notice.

**II. AAR Supports Advance Payment for Small Fees and Use of a Single Check for Multiple Fees**

The Commission has proposed to require advance payment for regulatory fees in Private Radio services that coincide with the filing of new, renewal or reinstatement applications. The AAR supports the Commission's proposal and agrees that assessment and collection of small regulatory fees on an annual basis would be very costly and impose additional burdens on Private Radio Service licensees. Advance payment on a multi-year basis is preferred.

Furthermore, AAR urges the Commission to adopt procedures that will eliminate the current policy governing application fees whereby a separate check is required for each license application.<sup>3/</sup> An example of the inefficient nature of this rule is the situation involving over 900 Advanced Train Control Service ("ATCS") licenses which AAR holds on behalf of its member railroads. When these licenses expire and are up for renewal, the AAR would prefer to cut only one check for the application fees and one check for the regulatory fees associated with these licenses. Under the current policy, unless a waiver is granted, the use of over 1,800 checks would be required -- one check per application for the filing fee and one check per application for

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<sup>2/</sup> 47 U.S.C. § 158.

<sup>3/</sup> 47 C.F.R. §1108(b).


the regulatory fee. AAR urges the Commission to modify the rule as proposed in the Notice and permit the use of a single payment instrument to cover multiple applications.<sup>4/</sup>

### III. Conclusion

The AAR supports the Commission's conclusion that the fees for the railroad licenses in the Private Operational Fixed Service and Private Land Mobile Radio Services should be classified as small fees and, therefore, payable in advance when a new, renewal or reinstatement applications are filed. The AAR supports the Commission's approach to harmonize its rules used to collect application fees with the proposed rules for collecting regulatory fees as discussed in the Notice.

Respectfully submitted,

THE ASSOCIATION OF AMERICAN RAILROADS

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April 7, 1994

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4/ Notice at ¶ 98.

## CERTIFICATE OF SERVICE

I, Bridget Y. Monroe, hereby certify that on this 7th day of April, 1994, a copy of the foregoing "Comments of Association of American Railroads" was served by first class United States mail, postage prepaid on the following parties:

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